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08/912,934	08/15/1997	JOHN S. HENDRICKS	5098	5188

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ART UNIT	PAPER NUMBER
2611	10

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

*[Signature]*

## Office Action Summary

Application No.  
08/912,934

Applicant(s)

Hendricks et al.

Examiner  
Christopher GrantArt Unit  
2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 35-108 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 35-39, 41-47, 50-98, and 101-108 is/are rejected.
- 7)  Claim(s) 40, 48, 49, 99, and 100 is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some\* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5-7,9      20)  Other: \_\_\_\_\_  
20 Sheets

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## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: the amendment to the specification at page 66, lines 28-29 (submitted 12/29/1997) appears to be incorrect because it interrupts the current language at page 66 of the specification. Appropriate correction is required. See 37 CFR 1.121 for amendments to the specification.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 35-38, 41, 42, 50, 51, 71-73, 96-98, 101-105, 107 and 108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al. (Banker) (5477262) and Haave et al. (Haave).

Considering claims 35 and 36, Banker discloses an apparatus and method for generating menus and a digital data signal from a central location to be used in television program delivery comprising: (a) a first processor (102, col. 10, lines 48-60) for generating menus (menu screens, on-screen data, messages-col. 13, lines 35-40, see figures 7-20); (b) a display (the monitor of

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processor 102) for displaying the generated menus wherein an operator at the central location designs (drafts, edits, sketches, outlines, plans) the menus using the keyboard of the processor (102); (c) a second processor (103, 104) connected to the first processor (102) for generating digital data signal containing the changed or the displayed menu (col. 8, line 25 - col. 10, line 60); and (d) a transmitter (105, x modulator, 106 - figure 1) for transmitting the generated digital data signal, whereby the menus may be generated using the contained data on the transmitted digital data signal. The designing of the menus by the system operator at the central location using processor (102) inherently involves storing menu format (sketches, outlines etc.) and repetitive modifications to produce optimum menus (col. 10, lines 47-60).

Although Banker discloses generating menus related to television programs (e.g. pay-per-view, favorite programs, figure 7A etc.) at a central location and receiving information from computer (101), he fails to specifically disclose an operation center, receiving input data/information about television programs and storing the data/information about programs as recited in the claims.

Haave et al. discloses an apparatus and method for generating menus and a digital data signal from an operation center (figure 1) to be used in television program delivery comprising a receiver (4) for receiving and storing information on television programs (see the entire reference including but not limited to col. 2, lines 41-69, col. 8, lines 24-39, col. 9, line 40 - col. 11, line 50). The advantages of Haave system are: (a) the central location receives various information on television programs which are necessary for generating schedules (b) it provides better usage of

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the cable station resources and (c) it facilitates programming responsive to the users needs and desires.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Banker's system (if necessary) to include an operation center, receiving input data/information about television programs and storing the data/information about programs, as taught by Haave, for the advantages of generating schedules, providing better usage of the cable station resources and facilitating programming responsive to the users needs and desires.

Claims 37-38, 72, 73, 96, 98, 101-103, 107 and 108 are met by the combined systems of Banker and Haave, wherein the various menus are met by all of Banker's menus (illustrated in all the figures) including but not limited to at least figures 7A, 12, 13 which are produced by computer (102) at the central location.

Claim 41 is met by the combined systems of Banker and Haave, wherein Banker discloses that a user (e.g. the system operator) designs the menus at col. 10, lines 47-60. Moreover, Haave discloses numerous menu editing and customization in columns 9-11.

Claim 42 is met by the combined systems of Banker and Haave, wherein the various menus are met by all of Banker's menu (figures 7-20), wherein the selection of an option opens a new menu or screen (a window).

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Claims 50-51 are met by the combined systems of Banker and Haave, wherein Banker discloses pay-per-view and favorite channels categories and at least program available services in all the figures including but not limited to at least figures 7A, 12, 13.

Claim 71 is met by the combined systems of Banker and Haave, wherein Banker discloses operating a VCR in figure 16A.

Claim 97 is met by the combined systems of Banker and Haave, wherein Haave discloses that the various input data/information are characteristics of the user, demographics data, viewing habits etc. in col. 2, lines 43-69.

Claim 104 is met by the combined systems of Banker and Haave, wherein Banker's system (102, 103, 104) selects programs from a pool of programs as discussed throughout the entire reference including but not limited to col. 8, lines 1-67. Furthermore, any central television provider selects programs from a pool of available programs from the numerous external sources such as HBO, CINEMAX or any movie distributor or original provider or maker of programs and services.

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Claim 105 is met by the combined systems of Banker and Haave, wherein Banker discloses that processor (101) receives requisite information about selected programs and chooses the price (bills) for the selected program in col. 7, line 58 - col. 8, line 11.

As for claims 39, 43-47, 52-70 and 74-95, Banker and Haave fail to specifically disclose the various menus, submenus, windows, graphic, navigational features, user interfaces and programming options as described by the claims.

However, it is notoriously well known in the art to utilize various menus, submenus, windows, graphic, navigational features, user interfaces and programming options to provide (i) a more user friendly system for identifying and manipulating programs and products; (ii) various products and program services, types, themes and packages to satisfy various user's interest and affordability and (iii) to provide additional services for generating revenue by the program and product providers.

It would have been obvious to one of ordinary skill in the art to modify the combined systems of Banker and Haave to include various menus, submenus, windows, graphic, navigational features, user interfaces and programming options because they routinely used in the art to provide a more user friendly system, satisfy various user's interest/affordability and for generating revenue by the program and product providers.

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4. Claim 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker and Haave as applied to claim 104 above, and further in view of Walling.

As for claim 106, Banker and Haave fail to specifically disclose allocating transponder space as recited in the claim.

Walling discloses a satellite transmission system comprising a means for allocating satellite space based on traffic requirements to ensure efficient use of the communication channel. See col. 15, lines 2-12. In any communication network a channel has to be assigned to a program in order for the program to be transmitted.

It would have been obvious to one of ordinary skill in the art to modify the combined systems of Banker and Haave to include allocating transponder space, as taught by Walling, for typical advantages of assigning a channel for a program to be transmitted and to ensure efficient use of the channel.

***Allowable Subject Matter***

5. Claims 40, 48-49, 99 and 100 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Connell et al. and Langford disclose manipulating menus at the headend. However, the menu is not transmitted to the subscriber.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Grant whose telephone number is (703) 305-4755. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (703) 306 0377.

*Christopher Grant*  
Christopher Grant  
Primary Examiner  
March 19, 2002